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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/622,214	07/18/2003	James J. Fitzgibbon	79009	4647
22242	7590	05/05/2005	EXAMINER	
FITCH EVEN TABIN AND FLANNERY 120 SOUTH LA SALLE STREET SUITE 1600 CHICAGO, IL 60603-3406			DUDA, RINA I	
			ART UNIT	PAPER NUMBER
			2837	

DATE MAILED: 05/05/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

10/622,214

Applicant(s)

FITZGIBBON ET AL.

Examiner

Rina I. Duda

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☐ Responsive to communication(s) filed on \_\_\_\_.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-46 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 41-46 is/are allowed.
- 6) ☒ Claim(s) 1-31 and 33-40 is/are rejected.
- 7) ☒ Claim(s) 32 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 20 October 2003 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date 11/24/03 & 3/11/05.
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_.

## **DETAILED ACTION**

### ***Specification***

1. The disclosure is objected to because of the following informalities: It does not contain a description of figures 3A and 3B. Appropriate correction is required.

### ***Double Patenting***

2. Claims 31 and 33-40 are objected to under 37 CFR 1.75 as being a substantial duplicate of claims 1, 3, 4, 10-15. When two claims in an application are duplicates or else are so close in content that they both cover the same thing, despite a slight difference in wording, it is proper after allowing one claim to object to the other as being a substantial duplicate of the allowed claim. See MPEP § 706.03(k).

### ***Claim Rejections - 35 USC § 102***

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

4. Claims 1-31, and 33-40 are rejected under 35 U.S.C. 102(b) as being anticipated by Vafaie et al (US patent 6082433).

Claims 1-3, 18-19, 31-33, Vafaie et al describe a movable barrier operator comprising an AC motor 38, an AC power source having a frequency of 50/60Hertz, a motor controller 520 connected to the power supply and the motor for responding to a

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user command and detects conditions of the movable barrier for changing the speed of the barrier by changing the motor control signals.

Claims 4, 20, 34, Vafaie et al describe controller 100 for controlling the effective voltage of the AC source coupled to the motor.

Claim 5, Vafaie et al describe in column 12 how the controller generates the appropriate power 200 to 230 volts depending upon the frequency 50 to 60 Hertz.

Claims 6 and 21, Vafaie et al describe how the motor rotates in the forward and reverse direction (opening and closing), see claim 1.

Claims 7-9, 22-24, Vafaie et al describe switches 540/542 for energizing the motor to rotate in the opening or closing direction.

Claims 10, 26, 35, Vafaie et al describe the use of an AC power supply with a frequency of 50/60 Hertz. When AC signals are inputted into an electrical system, the AC signal has a positive cycle (first half) and a negative cycle (second half).

Claims 11, 27, 36, Vafaie et al describe conductors 503-505 for connecting the power supply to the motor, the power supply would always be connected and the series of half cycles would always be provided to the motor (if the entire cycle is inputted to the motor that means than also a portion of the cycle is inputted to the motor).

Claim 12-14, 28-30, 37-39, Vafaie et al describe in columns 7 and 9 how the speed is increased/decreased between two limits as increasing/decreasing the voltage, so as described above if an entire cycle is increased a portion of the cycle is inherently increased.

Claims 15-17, 25, 40, Vafaie et al describe in column 9 how the barrier moves from an open position to a close position and how the speed varies depending upon the direction of movement of the barrier.

***Allowable Subject Matter***


5. Claims 41-46 are allowed.
6. Claim 32 is objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.
7. The following is a statement of reasons for the indication of allowable subject matter: The prior art made of record does not disclose a barrier movement operator or an induction motor control apparatus comprising a circuit connected to the mains voltage and the motor which respond to power control signals from a controller for varying the effective percentage of the mains voltage and sub-harmonics thereof coupled to the motor.
8. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Rina I. Duda whose telephone number is 571-272-2062.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, David Martin can be reached on 571-272-2107. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

RD

  
BINAY DUDA  
PRIMARY EXAMINER